



Local Initiatives. The Commission is currently in the process of reviewing two local initiatives passed by voters in the November 1986 elections. San Mateo County's Proposition A would incorporate the measure into the County's LCP. The measure covers a number of issues, including (1) the addition of gas to the existing LCP policy prohibiting onshore support facilities for offshore oil from locating within San Mateo County's coastal zone; (2) a required 4/5 majority vote of the Board of Supervisors, and in addition, a majority vote by the voters, for any LCP amendment making the LCP less restrictive than those policies adopted as part of the initiative; and (3) the addition of two terms to the definition of onshore oil support facilities.

The second initiative is San Luis Obispo County's Proposition A, which was adopted as an amendment to the County's LCP by the Board of Supervisors on November 10, 1987. This measure provides that no County action on an onshore support facility for offshore oil development may become final until a majority of voters in the county approve such a facility.

New Commissioner Appointed. The Senate Rules Committee has named Madelyn Glickfeld of Malibu to the Commission. She is president of MJG Inc., a consulting firm, and has been an alternate on the Commission since 1986, sitting for Commissioner Duane Garret, whom she succeeds. She is a member of the Planning and Conservation League, an environmental group.

LEGISLATION:

The following bills were passed and have been chaptered:

SB 23 (Bergeson) relates to a municipality's tort immunity for injuries caused by natural conditions. The bill provides that public beaches are deemed to be in a natural condition and unimproved notwithstanding the provision or absence of public safety services (such as life-guards or signs) at the beach.

AB 1291 (Frazee). The California Coastal Act of 1976 requires mitigation fees for development on nonprime agricultural lands in the City of Carlsbad outside certain areas to be deposited in the State Coastal Conservancy Fund. This bill appropriates money from the Conservancy Fund to be used for providing access to public beaches in the City of Carlsbad. It also requires that not less than 50% of the fees be expended for the restoration of natural resources and wildlife habitat in Bati-quitos Lagoon.

AB 158 (Killea, Deddeh) creates the San Diego Interagency Water Quality Panel to study water pollution in San Diego Bay. The Panel is composed of representatives from governmental agencies which have jurisdiction over various activities involving the Bay. The goal of the Panel is to identify potential toxic pollution problems and enhance enforcement of water quality laws. An annual report will be published by the Panel, which includes a member from the Coastal Commission.

The following two-year bills are expected to be reactivated during the next legislative session:

AB 1517 (Bergeson), the "Bolsa Chica" bill, is expected to be set for hearing in the Assembly Natural Resources Committee during January or February. Considered controversial, this bill concerns "Bolsa Chica," approximately 1,600 acres of coastal wetlands and uplands in Orange County and its proposed development by Signal Development Company (SDC), the landowner. The bill would essentially create a local government entity wholly controlled by SDC. Environmental concerns include the bill's failure to provide funding for the full restoration and long-term maintenance of 915 acres of wetlands at Bolsa Chica; the carving of an ocean entrance through a public beach; and the rerouting of Highway 1 to build a costly marina development.

AB 639 (Killea) would place a \$200 million bond measure on the 1988 ballot to fund the acquisition, restoration, and access development programs of the State Coastal Conservancy, which is currently running out of funding. The bill is being held in the Senate Appropriations Committee with other bond acts originating in the Assembly; no date has been set for hearing, as of this writing.

LITIGATION:

In *No Oil, Inc. v. California Coastal Commission*, No Oil Company has filed a petition for writ of mandate challenging the Commission's approval of a permit with conditions to Occidental Petroleum for exploratory oil and gas drilling in Pacific Palisades. The writ was filed in state court. (See CRLR Vol. 7, No. 4 (Fall 1987) p. 91 for background information.)

In September 1987, the Korean Drilling Company, Ltd. (KDC) filed a final brief in its appeal of a Coastal Commission decision to the Secretary of Commerce. In November 1986, the Commission objected to a consistency certification submitted by KDC for an EPA

individual National Pollution Discharge and Elimination System permit. The permit request concerns the discharge of drilling muds, cuttings, and associated wastes from the semi-submersible drilling vessel, *Doo Sung*, on active and soon-to-be-active lease tracts in the Outer Continental Shelf. (See CRLR Vol. 7, No. 2 (Spring 1987) p. 91 for background information.)

The Commission's objections are based on safety issues related to training and language proficiency, and adverse employment impacts from non-domestic operation.

RECENT MEETINGS:

At its September meeting in San Francisco, the Commission agreed to protect the endangered El Segundo Blue Butterfly. The Commission voted to allow Los Angeles International Airport to destroy weeds which are threatening the endangered butterflies' food supply. The butterflies live in the dunes west of the airport. Still unresolved is the airport's plan to develop a vacant 302-acre parcel which includes the dunes.

At its November meeting, the Commission approved the construction of a \$45 million luxury hotel lauded by Los Angeles County as the architectural centerpiece of its 800-acre Marina del Rey development. Although Commission staff objected because the project would limit beach access and create parking problems, the Commission granted a development permit to Ritz-Carlton Hotel Company for a 300-room, 14-story project at the northern end of the Marina's main channel.

FUTURE MEETINGS:

March 22-25 in San Francisco.

April 12-15 in Marina del Rey.

DEPARTMENT OF FISH AND GAME

Director: Pete Bontadelli
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The Department of Fish and Game (DFG) manages California's fish and wildlife resources. Created in 1951 as part of the state Resources Agency, DFG regulates recreational activities such as sport fishing, hunting, guide services and hunting club operations. The Department also controls commercial fishing, fish processing, trapping, mining and gamebird breeding.

In addition, DFG serves an informational function. The Department procures and evaluates biological data to



monitor the health of wildlife populations and habitats. The Department uses this information to formulate proposed legislation as well as the regulations which are presented to the Fish and Game Commission.

The Fish and Game Commission (FGC) is the policy-making board of DFG. The five-member body promulgates policies and regulations consistent with the powers and obligations conferred by state legislation. Each member is appointed to a six-year term.

As part of the management of wildlife resources, DFG maintains fish hatcheries for recreational fishing, sustains game and waterfowl populations and protects land and water habitats. DFG manages 100 million acres of land, 5,000 lakes, 30,000 miles of streams and rivers and 1,100 miles of coastline. Over 1,100 species and subspecies of birds and mammals and 175 species and subspecies of fish, amphibians and reptiles are under DFG's protection.

The Department's revenues come from several sources, the largest of which is the sale of hunting and fishing licenses and commercial fishing privilege taxes. Federal taxes on fish and game equipment, court fines on fish and game law violators, state contributions and public donations provide the remaining funds. Some of the state revenues come from the Environmental Protection Program through the sale of personalized automobile license plates.

DFG contains an independent Wildlife Conservation Board which has separate funding and authority. Only some of its activities relate to the Department. It is primarily concerned with the creation of recreation areas in order to restore, protect and preserve wildlife.

In November, Pete Bontadelli, Acting Director of the Department of Fish and Game, was appointed Director by Governor Deukmejian.

MAJOR PROJECTS:

Hearings on Alleged Cronyism and Mismanagement. Legislative interim hearings began in October to investigate continuing reports of mismanagement and cronyism in DFG. Among the items brought before the Assembly Committee on Governmental Organization and the Assembly Committee on Water, Parks and Wildlife were allegations of favoritism by DFG in the issuance of deer tags in certain premium zones; allegations of fish hatchery mismanagement; and allegations of DFG "rubber-stamping" approval of certain ranchers' requests for Private Lands Management consideration.

Few of the allegations were substantiated in testimony offered by the DFG and the public. However, there appears to be a significant lack of trust in the DFG, according to Assemblymember Gary Condit. Condit, then-Chair of the Governmental Organization Committee, stated that the "biggest problem people have with Fish and Game is their perception of it.... I think a lot of people have lost confidence in (DFG)." Condit added that an internal survey conducted by DFG revealed that DFG employees felt the agency was rife with ineptitude and poor morale, especially among wardens and biologists. One DFG employee responded to the survey by saying, "I've seen numerous employees violate Department of Fish and Game laws and other environmental laws. I've witnessed nepotism, cronyism, and favoritism that rival anything in the pre-Civil Service Commission days."

A summary of the survey, which was submitted to the legislature by the DFG in late October, stated that "more than 78% of employees feel good or excellent about the Department and its mission." However, in response to questions regarding communications and training, about two-thirds of those surveyed said that DFG's communication of policy was poor or fair, and 40% said training was poor or fair.

DFG Executive Secretary Harold Cribbs stated, "I read the Auditor General's report for 1986-87 and the DFG had a very clean slate. Everything was accounted for. Why can't the Department get credit when it does a good job?"

DFG spokesperson Peggy Blair said that beyond some consolidation of part-time jobs into full-time positions and the addition of two marine patrol boats, few DFG employee suggestions have been put into action. In November, DFG Acting Director Pete Bontadelli was appointed Director by Governor Deukmejian. Bontadelli stated his top priorities are better communication with the public, habitat acquisition and protection (see *infra Wetlands Policy*), a long-term funding base, and continued training for wardens and biologists.

Hearings were scheduled to continue in January, with the DFG survey expected to be a major issue.

Wetlands Policy and Guidelines. In early 1987, the FGC adopted a wetlands resources policy "to seek to provide for the protection, preservation, restoration, enforcement and expansion of wetland habitat in California." The policy was designed to discourage development in

or conversion of wetlands. The Commission has stated on numerous occasions its opposition to any development or conversion which would result in a reduction of wetlands acreage or habitat.

Major difficulties in implementing the policy were encountered in defining the term "wetlands", and in determining mitigation strategies and habitat value assessment methodology. At its December meeting, the Commission adopted general guidelines for the implementation of its wetlands policy.

The Commission accepted the DFG's recommendation to use the U.S. Fish and Wildlife Service's (USFWS) definition for wetlands identification. When all three wetlands indicators (hydric soils, wetlands vegetation, and hydrology) are present, a presumption of wetland existence shall be conclusive. Where fewer than three indicators are present, policy application shall be supported by the presence of fish or wildlife resources, related biological activity, and habitat values.

The Commission prefers mitigation which would achieve expansion of wetlands acreage and enhancement of wetlands habitat values. However, the Commission avoided adopting a strict acre-for-acre mitigation policy. The policy provides recognition for past or present contributions to the creation and/or maintenance of wetlands values resulting from actions by the owner. Where strict application would preclude opportunities for significant restoration or habitat value improvement on minimally functioning and continuously degrading wetlands, and where a "no project" alternative might not prevent the loss of the resource, then a more flexible mitigation approach may be allowed by the Commission.

Mitigation practice will provide buffers and maintenance to ensure the long-term viability of newly-created or enhanced replacement wetlands. In determining whether a proposal is acceptable, the DFG will evaluate the comparative degree of protection or permanence enjoyed by the original wetlands, according to the Commission.

The Commission urged DFG to develop and implement a comprehensive program of incentives to encourage and facilitate landowner cooperation with wetlands objectives, including the voluntary retention of existing wetlands and the creation of new wetlands acreage and values.

The Commission's policy and guidelines come in response to Senate Concurrent Resolution 28 (effective January 1,



1983). The resolution indicated the legislature's "intent to preserve, protect, restore and enhance California's wetlands and the multiple resources which depend upon them for the benefit of the people of the state." The legislature declared its desire that wetlands habitat acreage be increased by 50% by the year 2000.

Preemption. In September, the Attorney General issued an opinion (No. 86-607) that local governments may prohibit the use of steel-jawed leghold traps "where such action is necessary to protect the public health and safety and where the ordinance only incidentally affects the field of hunting preempted by the Fish and Game Code." The AG's opinion came in response to a DFG request concerning the issue of preemption.

According to the opinion, Article IV of the California Constitution divides the state into fish and game districts and directs the districts "to enact such laws for the protection of fish and game therein." Although the AG determined that the regulation of fish and game matters is reserved to the legislature under Article IV, the opinion suggested that subjects within the county's police power—health and safety, for example—may be regulated by counties and cities.

LEGISLATION:

Gill Net Legislation. A petition which would have put an initiative on the June ballot to ban gill nets and other fishing nets within three miles of the state's 840-mile coastline failed to obtain the necessary 590,000 signatures. However, DFG observers believe that the failed initiative will take the form of legislation in this session.

The following is a status update of two-year bills reported in CRLR Vol. 7, No. 4 (Fall 1987) at pp. 94-95:

AB 512 (Allen), regarding the monetary value of protected wildlife, remains before the Senate Committee on Natural Resources and Wildlife. No hearing date has been set as of this writing.

ACA 44 (Campbell), concerning qualifications of Fish and Game Commission members, was scheduled for hearing in the Assembly Committee on Elections, Reapportionment and Constitutional Amendments on February 10.

AB 33 (Harris, D. Brown) is pending before the Senate Committee on Revenue and Taxation as of this writing. No hearing date has been set for the measure, which concerns California taxpayers' tax-free contributions to the Rare and Endangered Species Fund.

AB 212 (Condit), which would exempt persons over the age of 65 from sports fishing licensure requirements, as specified, is pending in the Senate Rules Committee awaiting assignment.

AB 253 (Kelley), regarding specified duties of law enforcement members of DFG's Wildlife Protection Board, passed the Assembly on consent in January.

AB 271 (Allen, Killea), requiring DFG compliance with certain internal accounting and reporting procedures, passed the Assembly on January 27.

AB 369 (Allen, Chacon), regarding redirection of fishing from overexploited to underutilized areas, remains pending in the Senate Appropriations Committee with no hearing date scheduled.

LITIGATION:

In *Mountain Lion Coalition, et al. v. California Fish and Game Commission* (No. 875524, San Francisco Superior Court), Judge Lucy Kelly McCabe rejected as inadequate a DFG environmental report that she ordered on September 28. Judge McCabe's November 23 decision described the report as a "pro forma rehashing" of old information. (For background information, see CRLR Vol. 7, No. 4 (Fall 1987) p. 95; Vol. 7, No. 3 (Summer 1987) p. 118.)

Judge McCabe's ruling, which effectively blocks the first scheduled California mountain lion hunting season in fifteen years, is likely to be appealed by the DFG. The matter of appeal was scheduled for DFG executive session discussion on January 8.

FUTURE MEETINGS:

March 4 in San Diego.

BOARD OF FORESTRY

Executive Officer: Dean Cromwell
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The Board of Forestry is a nine-member Board appointed to administer the Z'berg-Nejedly Forest Practice Act of 1973 (Public Resources Code section 4511 *et seq.*). The Board serves to protect California's timber resources and to promote responsible timber harvesting. Also, the Board writes forest practice rules and provides the Department of Forestry and Fire Protection (CDF) with policymaking guidance. Additionally, the Board oversees the administration of California's forest system and wildland fire protection system. The Board members are:

Public: Jean Atkisson, Harold Walt (chair), Carlton Yee, Clyde Small, and Franklin L. "Woody" Barnes.

Forest Products Industry: Roy D. Berridge, Clarence Rose and Joseph Russ, IV.

Range Livestock Industry: Jack Shannon.

The Forest Practice Act requires careful planning of every timber harvesting operation by a registered professional forester (RPF). Before logging operations begin, each logging company must retain an RPF to prepare a timber harvesting plan (THP). Each THP must describe the land upon which work is proposed, silvicultural methods to be applied, erosion controls to be used, and other environmental protections required by the Forest Practice Rules. All THPs must be inspected by a forester on the staff of the Department of Forestry and, where appropriate, by experts from the Department of Fish and Game and/or the Regional Water Quality Control Boards.

For the purpose of promulgating Forest Practice Rules, the state is divided into three geographic districts—southern, northern and coastal. In each of these districts, a District Technical Advisory Committee (DTAC) is appointed. The various DTACs consult with the Board in the establishment and revision of district forest practice rules. Each DTAC is in turn required to consult with and evaluate the recommendations of the Department of Forestry, federal, state and local agencies, educational institutions, public interest organizations and private individuals. DTAC members are appointed by the Board and receive no compensation for their service.

MAJOR PROJECTS:

Preferential Conifer Stocking. At the request of CDF, the Board is considering amending sections 912, 932, and 952, Title 14 of the California Administrative Code, to designate certain "commercial species" to be replanted in each forest district in at least the same proportion as that which the species had occupied in the original stand. The protected "commercial species" would be fast-growing, economically-profitable pine species.

The Statement of Reasons on the proposed changes states that "[t]his standard is directed at maintaining the conifer composition of timber stands." Currently, timber operators can stock the coastal, northern, and southern forest districts with any "commercial species" enumerated in sections 912, 932, and 952, respectively.

Specifically, the proposal would desig-